

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.09.2018

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.No.1009 of 2013

and

M.P.No.1 of 2013

1. Tamlarvam
2. Suresh
3. Bharathiraja
4. Anjan
5. SivakumarPetitioners

Vs.

1. The State Represented by
Inspector of Police,
Thittachaeri Police Station,
Nagapattinam District.
2. RammoorthiRespondents

The Criminal Revision case filed under Section 397 read with 401 of Code of Criminal Procedure to call for the records in Crl. M.P.No.4818 of 2012 and set aside the order dated 03.01.2013 in Crl.M.P.No.4818 of 2012 in C.C.No.76 of 2012 on the file of the learned Judicial Magistrate No.2, Nagapattinam.

For Petitioners : Mr.A. Sivasubramanian

For Respondent : Mr.R.Ravichandran For R1
Govt. Advocate (Crl.Side)

No appearance For R2

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O R D E R

The defacto complainant filed a complaint before the first respondent/police alleging that M/s.Jeyapaul, Atchuthamenan, Mahendran and Murugesan had attacked him with wooden log. On the basis of the complaint, the first respondent has filed a case in Crime No,263 of 2011 for offence under Sections 294(b), 341, 324, 506(ii) of IPC. After investigation, the respondent police filed the charge sheet in C.C.No.16 of 2012 on the file of the learned Judicial Magistrate No.2, Nagapattinam as against

Accused 1 to 4. During trial, some of the prosecution witnesses have spoken about the involvement of these revision petitioners in this case and therefore, the defacto complainant filed a petition against these accused, seeking further investigation by the respondent police. After trial, the learned Magistrate has impleaded these revision petitioners and they have been arrayed as Accused 5 to 9. Based on the evidence of P.W.1/defacto complainant, these petitioners have been added as accused invoking Section 319 of Cr.P.C. Aggrieved against the said order passed by the learned Magistrate No.2, Nagapattinam, the petitioners have preferred the present revision before this Court.

2. The learned counsel for the petitioners would submit that after investigation, they were not originally impleaded in the charge sheet. Seeking further investigation by the defacto complainant, they have been impleaded as accused and arrayed as Accused 5 to 9. The learned Judicial Magistrate No.2, Nagapattinam has allowed the petition without giving any opportunity to the revision petitioners. Therefore, the learned counsel would contend that the impugned order warrants interference of this Court.

3. The learned Government Advocate (Crl. Side) would submit that during trial, the prosecution witnesses have spoken about the involvement of the present revision petitioners in this case. Further, the defacto complainant had given evidence against these petitioners. Therefore, the learned Magistrate has considered the evidence given by the prosecution witnesses and having found the involvement of these petitioners, they have been implicated as Accused 5 to 9 in C.C.76 of 2012 on the file of the learned Judicial Magistrate No.2, Nagapattinam. Hence, impugned order does not warrant interference.

4. Heard the learned counsel for the petitioners and the learned Government Advocate (Crl.Side) for the respondent police and perused the documents available on record.

5. Though, in the original charge sheet, these revision petitioners have not been arrayed as accused, during trial, after examination of some of the prosecution witnesses, P.W.1/defacto complainant has filed a petition to implead these revision petitioners as accused. Considering the evidence of P.W.1 and other witnesses, the learned Magistrate found that the revision petitioners are also involved in the said crime. Therefore, they are impleaded as accused. whether they have committed offence can be decided only after the trial and not at the stage. Therefore, in these circumstances, order passed by the learned Judicial Magistrate does not warrant any interference and there is no merit in the revision. Therefore, under these circumstances, the revision stands dismissed and the

revision petitioners are directed to appear before the learned Judicial Magistrate, No.2, Nagapattinam on 01.10.2018 in C.C.No.76/2012 dated 03.01.2013. Since, the case is pending from 2012. The learned Magistrate is directed to dispose of the case in accordance with law, within a period of four months from the date of receipt of copy of this order.

6. With the above observation, the criminal revision is dismissed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

rli

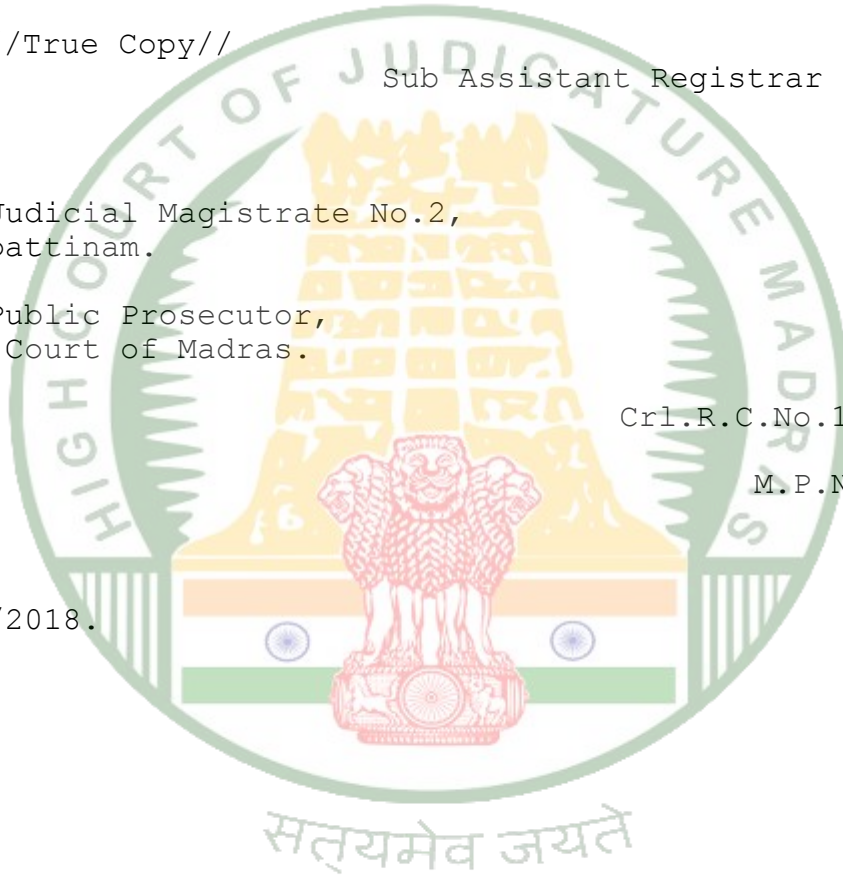
To

1. The Judicial Magistrate No.2,
Nagapattinam.
2. The Public Prosecutor,
High Court of Madras.

Crl.R.C.No.1009 of 2013
and
M.P.No.1 of 2013

NA(CO)

rrs 19/09/2018.



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